

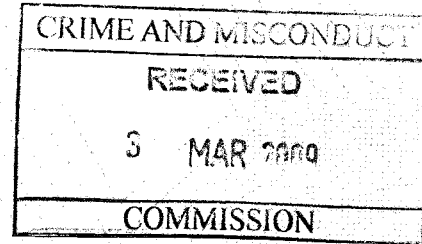


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27 February 2009

Ref: rosslyn/lawreform/police powers/CMC review- move on powers 2009

CMC Review of Move-On Powers  
 GPO box 3123  
 BRISBANE Q 4001



By post and email: [moveonpowers@cmc.qld.gov.au](mailto:moveonpowers@cmc.qld.gov.au)

Dear Sir/Madam

**RE: Review of Queensland Police Move-On Powers**

Youth Advocacy Centre (YAC) is a community legal and welfare service for young people aged under 17 years old. The nature of the Centre's work ranges from legal advice, representation, education, counselling, family mediation, and support for young people on issues such as accommodation, education and income.

YAC is interested in contributing to the CMC review of Queensland police move-on powers under the *Police Powers and Responsibilities Act 2000* (Qld) (PPRA) as the proper or improper exercise of the powers have a direct impact on the potential for young people to enter the criminal justice system.

Recently Drs Michael Briody and Regine Ip visited YAC to consult staff on the review issues. The purpose of this written submission is to summarise the key issues canvassed in that consultation and to provide some specific case studies.

**Complex law**

The complexity of the move-on powers laws makes it difficult for a young people to understand them. A lack of understanding about the law limits a young person's capacity to legitimately challenge a direction at the time it is given. There is a perception by both police and young people that young people can be formally moved on from all public places which can lead to the misuse and abuse of the powers by the police.

**Documentation of a move-on direction**

Under the PPRA the police are not required to issue a written direction to a person being moved-on. The exception is the exclusion notices issued by private security at the Southbank parklands.

In YAC's experience few young people, when later asked by legal representatives, can recall the details of why and when they were moved on. This makes it difficult for a move-on direction and any charges resulting from a failure to follow the direction to be challenged at a later date.

Queensland is the only Australian state or territory where this happens. Queensland is the only Australian state or territory where this happens. Queensland is the only Australian state or territory where this happens.

The issuing of a formal notice provides evidence of the exercise of the power and would distinguish those incidences when police are exercising "informal" powers. Any charges that might arise from the contravention of a direction can only arise from a formal exercise of the move-on power direction. Many YAC clients indicate that are given directions which are vague and broad which are clearly outside the time and geographical constraints of the formal powers.

#### **Move-on directions that compromise a young person's safety or access to services**

It is YAC's experience that young people are given move-on directions which can either compromise a young person's safety and/or access to essential services, which impacts upon their ability to comply with the direction.

Young people are moved on from places such as transport hubs. YAC is aware of incidences where young people have been moved on in Brisbane City that includes the geographical area where the young person needs to access public transport in order to comply with the move-on direction. This can lead to charges arising from failing to follow the direction and in some instances placing young people in unsafe situations when known transport options are not available to them.

*Case study: In November 2008 a young person was moved on from the Brisbane City mall after loudly calling out to another young person. The young person was banned from returning to Elizabeth, Adelaide, Albert and George Streets for 12 hours. The young person was unable to catch the bus home as the restricted streets surrounded the bus terminal.*

It is common for groups of young people might meet up centrally in Brisbane City and that members of the group rely on each other for geographical and transport information. If one young person is isolated from the group by being issued with a move-on direction they are at risk of not knowing where they are and how to access transport out of the area. By not taking the safety of the young person into account there is a risk that the young person may at the very least contravene the order and at worst find themselves in unsafe situations.

*Case study: In June 2008 a 15 year old young woman attended the city with her cousin as part of a larger group of young people. A fight ensued between some of the young people in Elizabeth Street and the police cordoned off an area where fight had been blocking an area of Elizabeth Street. The young woman was concerned about her cousin and approached him in the area cordoned off by police. The police directed the young woman to move away from her cousin in a southerly direction towards George Street. The young woman was unfamiliar with the city and did not know how to get the train station or back to the area where he other companions were from George Street. Accordingly the young woman attempted to walk in the northerly direction towards Albert Street. The police approached her about her failure to comply with the direction to walk towards George Street. The young woman was upset and abused the police officer using offensive language and consequently was arrested and transported to the police station where she was later released to attend at court for a charge of Public Nuisance.*

YAC is aware of an incidence where a young person was sleeping on park bench and was told to move on. The police explained that the move-on direction was for the young person's "safety", despite this young person being homeless. An appropriate statutory response to a young person at risk of harm is to make a notification to Child Safety, not issue a move-on direction.

Use of move-on powers potentially criminalises young people for being young people

YAC is concerned that move-on powers are used by police to further criminalise young people for exhibiting normal adolescent behaviour. There are number of reasons why the exercise of move-on powers might criminalise a young people:

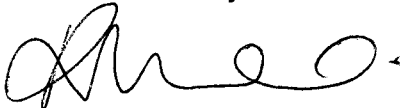
Firstly, young people most likely to be moved on by local police are those young people already known to them. This kind of monitoring is likely to result in confrontations when young people feel that are being targeted unfairly. This is clearly detrimental to the ongoing relationship between police and young people.

Secondly, groups of young people congregate in public space as they have no private spaces of their own to meet with friends and "hang out". Young people in groups engage in energetic behaviour. While this behaviour makes young people more visible it does not automatically follow that there is a threat to the safety of others.

Thirdly, YAC is aware of least one instance where a police officer has not given a young person a caution under the *Juvenile Justice Act 1992* (Qld) because the young person had a history of being moved on. The police officer mistakenly considered a move-on direction to be part of the young person's criminal history and hence impacted upon the young person's eligibility for diversion from the criminal justice system.

Youth Advocacy Centre is very interested in the outcomes of the review and looks forward to obtaining information about its recommendations in the near future.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R Monro', written in a cursive style.

Rosslyn Monro  
Director